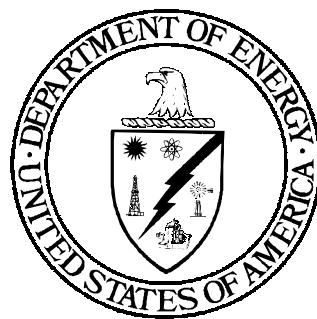


# ***FEDERAL ENVIRONMENTAL NOTIFICATION & REPORTING REQUIREMENTS HANDBOOK***



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# Chapter 4. The Emergency Planning & Community Right-to-Know Act

## Purpose and Organization

The *Emergency Planning and Community Right-to-Know Act* (EPCRA), enacted on October 17, 1986, represents a significant first step toward a major Federal role in areas previously regulated by State and local government. EPCRA was enacted by Congress as a stand-alone provision, Title III, of the *Superfund Amendments and Reauthorization Act* (SARA).

Title III was passed in response to concerns regarding the environmental and safety hazards posed by the storage and handling of toxic chemicals. The disaster in Bhopal, India in which more than 2,000 people suffered death or serious injury from the accidental release of methyl isocyanate triggered this concern. To reduce the likelihood of such a disaster in the United States, Congress imposed requirements on both States and regulated facilities. Facilities must notify the local emergency planning districts as to materials maintained at, and of releases occurring from, the sites.

The emergency planning aspect requires local communities to prepare plans to deal with emergencies relating to hazardous substances. The community right-to-know aspect creates new rights for members of the public and local governments to obtain information concerning potential threats in their neighborhoods involving hazardous substances. EPCRA provides the tools for local governments and members of the community to make their own decisions regarding hazardous materials in their communities.

EPCRA contains three subtitles. Subtitle A, Emergency Planning and Notification, establishes mechanisms to enable States and communities to prepare to respond to unplanned releases of hazardous substances. Subtitle B, Reporting Requirements, contains three distinct reporting provisions concerning two different groups of chemical substances. The first two sets of reports require submission of inventory-related data on *hazardous chemicals* [i.e., those substances for which a Material Safety Data Sheet (MSDS) is mandated under the hazard communication regulations of the Occupational Safety and Health Administration]. The third provision requires annual reporting to the Environmental Protection Agency (EPA) and the State in

which the reporting facility is located of information regarding environmental releases of listed *toxic chemicals* manufactured, processed, or otherwise used at the facility in excess of specified threshold quantities. Subtitle C, General Provision, contains a variety of provisions, including, but not limited to, civil, criminal, and administrative penalties for violations of the statute's reporting requirements; enforcement actions that can be brought by citizens, States, and emergency planning and response entities; and restrictions on an owner's or operator's rights to make trade secrecy claims in the reports required by EPCRA.

## Requirements for Affected Facilities

Title 40 of the *Code of Federal Regulations*, Part 355 Appendix A defines "extremely hazardous substances." Any DOE facility that manages extremely hazardous substances in quantities exceeding the Threshold Planning Quantities (TPQ) noted in the Appendix must comply.

Under 40 CFR Part 355, facilities must notify the emergency response commission that they are subject to these requirements. The facilities must notify the local emergency planning unit of releases exceeding a Reportable Quantity (RQ) of extremely hazardous substances, as defined under Title III, and "hazardous substances," as defined under the *Comprehensive Environmental Response, Compensation, and Liability Act* (CERCLA). In addition, the facilities must report their chemical inventories and provide MSDSs to the local emergency planning organizations as outlined in 40 CFR Part 370. DOE complies with these provisions voluntarily.

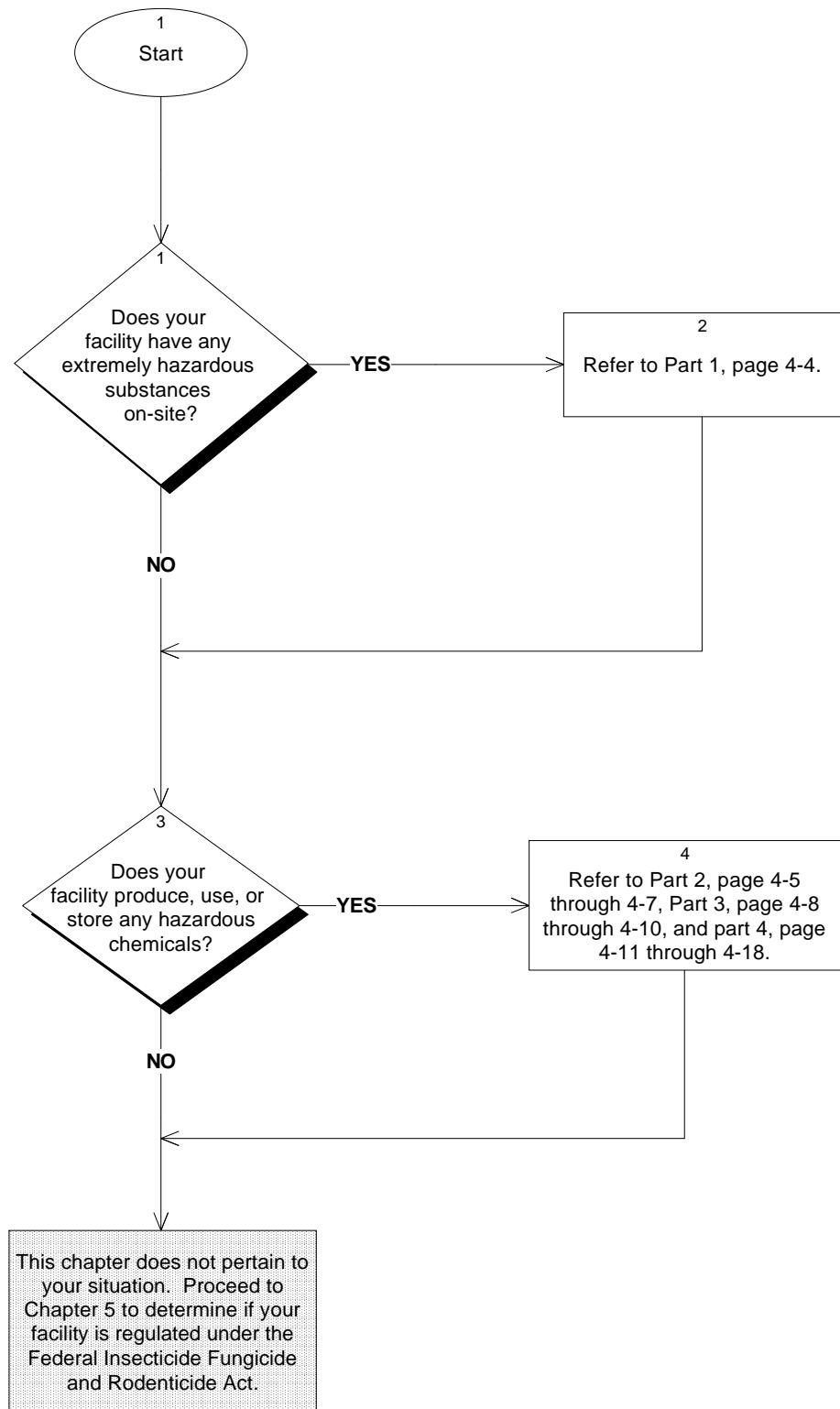
## Notification and Reporting Requirements

The following reporting requirements apply under EPCRA:

- The owner or operator of a facility at which there is present an amount of any extremely hazardous substance equal to or in excess of its threshold planning quantity shall notify the State Emergency Response Commission (SERC).
- The owner or operator of a facility shall immediately notify the SERC and local emergency planning committee (LEPC) of releases of CERCLA hazardous substances or EPCRA extremely hazardous substances that equal or exceed a reportable quantity and have the potential to migrate beyond a facility's boundary.
- The owner or operator of a facility subject to the requirements of SARA Title III shall submit a list or a copy of material safety data sheets (MSDSs) for all hazardous chemicals present in a certain quantity. In addition, an annual inventory report on these hazardous chemicals must be submitted to the SERC, LEPC, and fire department.
- The owner or operator of an affected facility must submit to EPA and the State a list of toxic chemicals that are manufactured, processed, or otherwise used in excess of an applicable threshold quantity at the facility and shall submit annual reports regarding the facility's toxic chemical release inventory.

Figure 4 guides the user to the various EPCRA notification and reporting requirements conveyed in this chapter that are relevant to a DOE facility or situation.

**Figure 4: Emergency Planning and Community Right-to-Know Act**



## Table 4

### Emergency Planning and Community Right-To-Know Act

#### **Part 1. Emergency Planning and Notification**

##### **Authorizations**

SARA Title III Section  
302(c)

**References**  
40 CFR 355.30

##### **Emergency Planning**

- (a) Applicability. The requirements of this section apply to any facility at which there is present an amount of any extremely hazardous substance equal to or in excess of its threshold planning quantity, or designated, after public notice and opportunity for comment, by the Commission or the Governor for the State in which the facility is located. For purposes of this section, an "amount of any extremely hazardous substance" means the total amount of an extremely hazardous substance present at any one time at a facility at concentrations greater than one percent by weight, regardless of location, number of containers, or method of storage.
- (b) Emergency planning notification. The owner or operator of a facility subject to this section shall provide notification to the Commission that it is a facility subject to the emergency planning requirements of {40 CFR Part 355}. Such notification shall be provided on or before May 17, 1987, or within sixty days after a facility first becomes subject to the requirements of this section, whichever is later.
- (c) Facility emergency coordinator. The owner or operator of a facility subject to this section shall designate a facility representative who will participate in the local emergency planning process as a facility emergency response coordinator. The owner or operator shall notify the local emergency planning committee (or the Governor if there is no committee) of the facility representative on or before September 17, 1987 or 30 days after establishment of a local emergency planning committee whichever is earlier.
- (d) Provision of information.
  - (1) The owner or operator of a facility subject to this section shall inform the local emergency planning committee of any changes occurring at the facility which may be relevant to emergency planning.
  - (2) Upon request of the local emergency planning committee, the owner or operator of a facility subject to this section shall promptly provide to the committee any information necessary for development or implementation of the local emergency plan.

**Table 4**  
**Emergency Planning and Community Right-To-Know Act**

<b>Part 2. Emergency Release Notification</b>	
<p><b>Authorizations</b> SARA Title III Section 304(a)</p> <p><b>References</b> 40 CFR 355.40</p>	<p><b>Emergency Release Notification</b></p> <p>(a) Applicability.</p> <p>(1) The requirements of this section apply to any facility:</p> <ul style="list-style-type: none"> <li>(i) At which a hazardous chemical is produced, used, or stored, and</li> <li>(ii) At which there is release of a reportable quantity of any extremely hazardous substance or CERCLA hazardous substance.</li> </ul> <p>(2) This section does not apply to:</p> <ul style="list-style-type: none"> <li>(i) Any release which results in exposure to persons solely within the boundaries of the facility.</li> <li>(ii) Any release which is a "Federally permitted release" as defined in Section 101(10) of CERCLA.</li> <li>(iii) Any release that is continuous and stable in quantity and rate under the definitions in 40 CFR 302.8(b). Exemption from notification under this subsection does not include exemption from: <ul style="list-style-type: none"> <li>(A) Initial notifications as defined in 40 CFR 302.8(d) and (e).</li> <li>(B) Notification of a "statistically significant increase," defined in 40 CFR 302.8(b) as any increase above the upper bound of the reported normal range, which is to be submitted to the community emergency coordinator for the local emergency planning committee for any area likely to be affected by the release and to the State emergency response commission of any State likely to be affected by the release.</li> <li>(C) Notification of a "new release" as defined in 40 CFR 302.8(g)(1).</li> <li>(D) Notification of a change in the normal range of the release as required under 40 CFR 302.8(g)(2).</li> </ul> </li> </ul>

## Emergency Planning and Community Right-To-Know Act

**Table 4**

### **Part 2. Emergency Release Notification (con't.)**

<b>References</b> 40 CFR 355.40 (con't.)	<ul style="list-style-type: none"> <li>(iv) Any release of a pesticide product exempt from CERCLA Section 103(a) reporting under Section 103(e) of CERCLA.</li> <li>(v) Any release not meeting the definition of release under Section 101(22) of CERCLA, and therefore exempt from Section 103(e) reporting.</li> <li>(vi) Any radionuclide release which occurs (A) naturally in soil from land holdings such as parks, golf courses, or other large tracts of land; (B) naturally from the disturbance of land for purposes other than mining, such as for agricultural or construction activities; (C) from the dumping of coal and coal ash at utility and industrial facilities with coal-fired boilers; and (D) from coal and coal ash piles at utility and industrial facilities with coal-fired boilers.</li> </ul>
	<p>Note: Releases of CERCLA hazardous substances are subject to the release reporting requirements of CERCLA Section 103, codified at 40 CFR Part 302, in addition to the requirements of this part.</p> <p>(b) Notice requirements.</p> <ul style="list-style-type: none"> <li>(1) The owner or operator of a facility subject to this section shall immediately notify the community emergency coordinator for the local emergency planning committee of any area likely to be affected by the release and the State emergency response commission of any State likely to be affected by the release. If there is no local emergency planning committee, notification shall be provided under this section to relevant local emergency response personnel.</li> <li>(2) The notice required under this section shall include the following to the extent known at the time of notice and so long as no delay in notice or emergency response results:           <ul style="list-style-type: none"> <li>(i) The chemical name or identity of any substance involved in the release.</li> <li>(ii) An indication of whether the substance is an extremely hazardous substance.</li> <li>(iii) An estimate of the quantity of any such substance that was released into the environment.</li> </ul> </li> </ul>

**Table 4**  
**Emergency Planning and Community Right-To-Know Act**

**Part 2. Emergency Release Notification (con't.)**

<p><b>References</b> 40 CFR 355.40 (con't.)</p>	<p>(iv) The time and duration of the release.</p> <p>(v) The medium or media into which the release occurred.</p> <p>(vi) Any known or anticipated acute or chronic health risks associated with the emergency and, where appropriate, advice regarding medical attention necessary for exposed individuals.</p> <p>(vii) Proper precautions to take as a result of the release, including evacuation (unless such information is readily available to the community emergency coordination pursuant to the emergency plan).</p> <p>(viii) The names and telephone number of the person or persons to be contacted for further information.</p> <p>(3) As soon as practicable after a release which requires notice under (b)(1) of this section, such owner or operator shall provide a written follow-up emergency notice (or notices, as more information becomes available) setting forth and updating the information required under paragraph (b)(2) of this section, and including additional information with respect to:</p> <ul style="list-style-type: none"> <li>(i) Actions taken to respond to and contain the release,</li> <li>(ii) Any known or anticipated acute or chronic health risks associated with the release, and,</li> <li>(iii) Where appropriate, advice regarding medical attention necessary for exposed individuals.</li> </ul>
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## Table 4

### Emergency Planning and Community Right-To-Know Act

#### **Part 3. Hazardous Chemical Reporting: Community Right-To-Know**

<b>Authorizations</b>	<b>Applicability</b>
SARA Title III Section 311(a)(1)	<p>(a) General. The requirements of this subpart apply to any facility that is required to prepare or have available a material safety data sheet (MSDS) for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act.</p>
References 40 CFR 370.20	<p>(b) Minimum threshold levels. Except as provided in paragraph (b)(3), the minimum threshold level for reporting under this subpart shall be as specified in paragraphs (b)(1) and (b)(2):</p> <ul style="list-style-type: none"> <li>(1) The owner or operator of a facility subject to this subpart shall submit an MSDS on or before October 17, 1990 (or within three months after the facility first becomes subject to this subpart), for all hazardous chemicals present at the facility at any one time in amounts equal to or greater than 10,000 pounds (or 4,540 kg.) and for all extremely hazardous substances present at the facility in an amount greater than or equal to 500 pounds (or 227 kg. - approximately 55 gallons) or the TPQ, whichever is lower.</li> <li>(2) The owner or operator of a facility subject to this subpart shall submit the Tier I form (or Tier II form) on or before March 1, 1991 (or March 1 of the first year after the facility first becomes a subject to this subpart), and annually thereafter, covering all hazardous chemicals present at a facility at any one time during the preceding calendar year in amounts equal to or greater than 10,000 pounds (or 4,540 kg.) and extremely hazardous substances present at the facility in an amount greater than or equal to 500 pounds (or 227 kg. - approximately 55 gallons) or the TPQ, whichever is lower.</li> <li>(c) The minimum threshold for reporting in response to requests for submission of an MSDS or a Tier II form under Section 370.21(d) and 370.25(c) of this part shall be zero.</li> </ul> <p><b>Material Safety Data Sheet (MSDS) Reporting</b></p> <p><b>References 40 CFR 370.21</b></p> <ul style="list-style-type: none"> <li>(a) Basic requirement. The owner or operator of a facility subject to this subpart shall submit an MSDS for each hazardous chemical present at the facility according to the minimum threshold schedule provided in paragraph (b) of 40 CFR 370.20 to the committee, the commission, and the fire department with jurisdiction over the facility.</li> <li>(b) Alternative reporting. In lieu of the submission of an MSDS for each hazardous chemical under paragraph (a) of this</li> </ul>

**Table 4**  
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**Part 3. Hazardous Chemical Reporting: Community Right-To-Know (con't.)**

<p><b>References</b> 40 CFR 370.21 (con't.)</p> <p>section, the owner or operator may submit the following:</p> <ul style="list-style-type: none"> <li>(1) A list of the hazardous chemicals for which the MSDS is required, grouped by hazard category as defined under 40 CFR 370.2.</li> <li>(2) The chemical or common name of each hazardous chemical as provided on the MSDS.</li> <li>(3) Except for reporting of mixtures under 40 CFR 370.28(a)(2), any hazardous component of each hazardous chemical as provided on the MSDS.</li> <li>(c) Supplemental reporting.           <ul style="list-style-type: none"> <li>(1) The owner or operator of a facility that has submitted an MSDS under this section shall provide a revised MSDS to the committee, the commission, and the fire department with jurisdiction over the facility within three months after discovery of significant new information concerning the hazardous chemical for which the MSDS was submitted.</li> <li>(2) After October 17, 1987, the owner or operator of a facility subject to this section shall submit an MSDS for a hazardous chemical pursuant to paragraph (a) of this section or a list pursuant to paragraph (b) of this section within three months after the owner or operator is first required to prepare or have available the MSDS or after a hazardous chemical requiring an MSDS becomes present in an amount exceeding the threshold established in 40 CFR 370.20(b).</li> </ul> </li> <li>(d) Submission of MSDS upon request. The owner or operator of a facility that has not submitted the MSDS for a hazardous chemical present at the facility shall submit the MSDS for any such hazardous chemical to the committee upon its request. The MSDS shall be submitted within 30 days of the receipt of such request.</li> </ul>	<p><b>Inventory Reporting</b></p> <p><b>References</b> 40 CFR 370.25</p> <ul style="list-style-type: none"> <li>(a) Basic requirement. The owner or operator of a facility subject to this subpart shall submit an inventory form to the commission, the committee, and the fire department with jurisdiction over the facility. The inventory form containing Tier I information on hazardous chemicals present at the facility during the preceding calendar year above the threshold levels established in 40 CFR 370.20(b) shall be submitted on or before March 1 of each year, beginning in 1988.</li> </ul>
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**Table 4**  
**Emergency Planning and Community Right-To-Know Act**

**Part 3. Hazardous Chemical Reporting: Community Right-To-Know (con't.)**

<p><b>References</b> 40 CFR 370.25 (con't.)</p>	<p>(b) Alternative reporting. With respect to any specific hazardous chemical at the facility, the owner or operator may submit a Tier II form in lieu of the Tier I information.</p> <p>(c) Submission of Tier II information. The owner or operator of a facility subject to this section shall submit the Tier II form to the commission, committee, or the fire department having jurisdiction over the facility upon request of such persons. The Tier II form shall be submitted within 30 days of the receipt of each request.</p>
<p><b>References</b> 40 CFR 370.28</p>	<p><b>Mixtures</b></p> <p>(a) Basic reporting. The owner or operator of a facility may meet the reporting requirements of 40 CFR 370.21 (MSDS reporting) and 370.25 (inventory form reporting) of this subpart for a hazardous chemical that is a mixture of hazardous chemicals by:</p> <ul style="list-style-type: none"> <li>(1) Providing the required information on each component in the mixture which is a hazardous chemical, or</li> <li>(2) Providing the required information on the mixture itself, so long as the reporting of mixtures by a facility under 40 CFR 370.25 is in the same manner as under 40 CFR 370.21, where practicable.</li> </ul>

## Table 4

### Emergency Planning and Community Right-To-Know Act

<b>Part 4. Toxic Chemical Release Reporting</b>	
<b>Authorizations</b> SARA Title III Section 313	<b>Persons Subject to this Part</b>  Owners and operators of facilities described in 40 CFR 372.22 and 372.45 are subject to the requirements of this part. If the owner and operator of a facility are different persons, only one need report under 40 CFR 372.17 or provide a notice under 40 CFR 372.45 for each toxic chemical in a mixture or trade name product distributed from the facility. However, if no report is submitted or notice provided, EPA will hold both the owner and the operator liable under Section 325(c) of Title III, except as provided in 372.38(e) and 372.45(g).
<b>References</b> 40 CFR 372.5	<b>Covered Facilities for Toxic Chemical Release Reporting</b>  Note: Executive Order 12856 made SARA Title III mandatory for all Federal agencies that operate a facility as defined by Section 329(4) of EPCRA (if, such facility meets the threshold amounts). In this context "facility means all buildings, equipment, structures and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled by, or under common control with, such person). For purposes of Section 304, the term includes motor vehicles, rolling stock, and aircraft."
<b>References</b> 40 CFR 372.22	A facility that meets all of the following criteria for a calendar year is a covered facility for that calendar year and must report under 40 CFR 372.30:  <ul style="list-style-type: none"> <li>(a) The facility has 10 or more full-time employees.</li> <li>(c) The facility manufactured (including imported), processed, or otherwise used a toxic chemical in excess of an application threshold quantity of that chemical set forth in 40 CFR 372.25.</li> </ul> <b>Thresholds for Reporting</b>  The threshold amounts for purposes of reporting under 40 CFR 372.30 for toxic chemicals are as follows:  <ul style="list-style-type: none"> <li>(a) With respect to a toxic chemical manufactured (including imported) or processed at a facility during the following calendar years:  1989 and thereafter - 25,000 pounds of the chemical manufactured or processed for the year.</li> </ul>

## Emergency Planning and Community Right-To-Know Act

**Table 4**

### **Part 4. Toxic Chemical Release Reporting (con't.)**

<b>References</b>	<b>(b)</b> With respect to a chemical otherwise used at a facility, 10,000 pounds of the chemical used for the applicable calendar year.
40 CFR 372.25 (con't.)	<p>(c) With respect to activities involving a toxic chemical at a facility, when more than one threshold applies to the activities, the owner or operator of the facility must report if it exceeds any applicable threshold and must report on all activities at the facility involving the chemical, except as provided in 40 CFR 372.38.</p> <p>(d) When a facility manufactures, processes, or otherwise uses more than one member of a chemical category listed in 40 CFR 372.65(c), the owner or operator of the facility must report if it exceeds any applicable threshold for the total volume of all the members of the category involved in the applicable activity. Any such report must cover all activities at the facility involving members of the category.</p> <p>(e) A facility may process or otherwise use a toxic chemical in a recycle/reuse operation. To determine whether the facility has processed or used more than an applicable threshold of the chemical, the owner or operator of the facility shall count the amount of the chemical added to the recycle/reuse operation during the calendar year. In particular, if the facility starts up such an operation during a calendar year, or in the event that the contents of the whole recycle/reuse operation are replaced in a calendar year, the owner or operator of the facility shall also count the amount of the chemical placed into the system at these times.</p> <p>(f) A toxic chemical may be listed in 40 CFR 372.65 with the notation that only persons who manufacture the chemical, or manufacture it by a certain method, are required to report. In that case, only owners or operators of facilities that manufacture that chemical as described in 40 CFR 372.65 in excess of the threshold applicable to such manufacture in 40 CFR 372.25 are required to report. In completing the reporting form, the owner or operator is only required to account for the quantity of the chemical so manufactured and releases associated with such manufacturing, but not releases associated with subsequent processing or use of the chemical at that facility. Owners and operators of facilities that solely process or use such a chemical are not required to report for that chemical.</p> <p>(g) A toxic chemical may be listed in 40 CFR 372.65 with the notation that it is in a specific form (e.g., fume or dust, solution, or friable) or of a specific color (e.g., yellow or white). In that case, only owners or operators of facilities that manufacture, process, or use that chemical in the form or of the color specified in 40 CFR 372.65 in excess of the threshold applicable to such activity in 40 CFR 372.25 are required to report. In completing the reporting form, the owner or operator is only required to account for the quantity of the chemical manufactured, processed, or used in the form or</p>

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<b>Part 4. Toxic Chemical Release Reporting (con't.)</b>	
<b>References</b> 40 CFR 372.25 (con't.)	<p>color specified in 40 CFR 372.65 and for releases associated with the chemical in that form or color. Owners or operators of facilities that solely manufacture, process, or use such a chemical in a form or color other than those specified by 40 CFR 372.65 are not required to report for that chemical.</p> <p>(h) Metal compound categories are listed in 40 CFR 372.65(c). For purposes of determining whether any of the thresholds specified in 40 CFR 372.25 are met for a metal compound category, the owner or operator of a facility must make the threshold determination based on the total amount of all members of the metal compound category manufactured, processed, or used at the facility. In completing the release portion of the reporting form for releases of the metal compounds, the owner or operator is only required to account for the weight of the parent metal released. Any contribution to the mass of the release attributable to other portions of each compound in the category is excluded.</p>
<b>References</b> 40 CFR 372.30	<p><b>Reporting Requirements and Schedule for Reporting</b></p> <p>(a) For each toxic chemical known by the owner or operator to be manufactured (including imported), processed, or otherwise used in excess of an applicable threshold quantity in 40 CFR 372.25 at its covered facility described in 40 CFR 372.22 for a calendar year, the owner or operator must submit to EPA and to the State in which the facility is located a completed EPA Form R (EPA Form 9350-1) in accordance with the instructions referred to in {40 CFR 372} Subpart E.</p> <p>(b) (1) The owner or operator of a covered facility is required to report as described in paragraph (a) of this section on a toxic chemical that the owner or operator knows is present as a component of a mixture or trade name product which the owner or operator receives from another person, if that chemical is imported, processed, or otherwise used by the owner or operator in excess of an applicable threshold quantity in 40 CFR 372.25 at the facility as part of that mixture or trade name product.</p> <p>(2) The owner or operator knows that a toxic chemical is present as a component of a mixture or trade name product:</p> <ul style="list-style-type: none"> <li>(i) If the owner or operator knows or has been told the chemical identity or Chemical Abstracts Service Registry Number of the chemical and the identity or Number corresponds to an identity or Number in {40 CFR 372.65}, or</li> <li>(ii) If the owner or operator has been told by the supplier of the mixture or trade name product that the mixture or trade name product contains a toxic chemical subject to Section 313 of EPCRA or {40 CFR 372}.</li> </ul>

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### **Part 4. Toxic Chemical Release Reporting (con't.)**

**References**  
40 CFR 372.30 (con't.)

(3) To determine whether a toxic chemical which is a component of a mixture or trade name product has been imported, processed, or otherwise used in excess of an applicable threshold in 40 CFR 372.25 at the facility, the owner or operator shall consider only the portion of the mixture or trade name product that consists of the toxic chemical and that is imported, processed, or otherwise used at the facility, together with any other amounts of the same toxic chemical that the owner or operator manufactures, imports, processes, or otherwise uses at the facility as follows:

- (i) If the owner or operator knows the specific chemical identity of the toxic chemical and the specific concentration at which it is present in the mixture or trade name product, the owner or operator shall determine the weight of the chemical imported, processed, or otherwise used as part of the mixture or trade name product at the facility and shall combine that with the weight of the toxic chemical manufactured (including imported), processed, or otherwise used at the facility other than as part of the mixture or trade name product. After combining these amounts, if the owner or operator determines that the toxic chemical was manufactured, processed, or otherwise used in excess of an applicable threshold in 40 CFR 372.25, the owner or operator shall report the specific chemical identity and all releases of the toxic chemical on EPA Form R in accordance with the instructions referred to in Subpart E of {40 CFR 372}.
- (ii) If the owner or operator knows the specific chemical identity of the toxic chemical and does not know the specific concentration at which the chemical is present in the mixture or trade name product, but has been told the upper bound concentration of the chemical in the mixture or trade name product, the owner or operator shall assume that the toxic chemical is present in the mixture or trade name product at the upper bound concentration, shall determine whether the chemical has been manufactured, processed, or otherwise used at the facility in excess of an applicable threshold as provided in paragraph (b)(3)(i) of this section, and shall report as provided in paragraph (b)(3)(i) of this section.
- (iii) If the owner or operator knows the specific chemical identity of the toxic chemical, does not know the specific concentration at which the chemical is present in the mixture or trade name product, has not been told the upper bound concentration of the chemical in the mixture or trade name product, and has not otherwise developed information on the composition of the chemical in the mixture or trade name product, then the owner or operator is not required to factor that chemical in that mixture or trade name product into the threshold and release calculations for that chemical.

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### **Part 4. Toxic Chemical Release Reporting (con't.)**

<b>References</b>	
<u>40 CFR 372.30 (con't.)</u>	<p>(iv) If the owner or operator has been told that a mixture or trade name product contains a toxic chemical, does not know the specific chemical identity of the chemical and knows the specific concentration at which it is present in the mixture or trade name product, the owner or operator shall determine the weight of the chemical imported, processed, or otherwise used as part of the mixture or trade name product at the facility. Since the owner or operator does not know the specific identity of the toxic chemical, the owner or operator shall make the threshold determination only for the weight of the toxic chemical in the mixture or trade name product. If the owner or operator determines that the toxic chemical was imported, processed, or otherwise used as part of the mixture or trade name product in excess of an applicable threshold in 40 CFR 372.25, the owner or operator shall report the generic chemical name of the toxic chemical, or a trade name if the generic chemical name is not known, and all releases of the toxic chemical on EPA Form R in accordance with the instructions referred to in Subpart E of {40 CFR 372}.</p> <p>(v) If the owner or operator has been told that a mixture or trade name product contains a toxic chemical, does not know the specific chemical identity of the chemical, and does not know the specific concentration at which the chemical is present in the mixture or trade name product, but has been told the upper bound concentration of the chemical in the mixture or trade name product, the owner or operator shall assume that the toxic chemical is present in the mixture or trade name product at the upper bound concentration, shall determine whether the chemical has been imported, processed, or otherwise used at the facility in excess of an applicable threshold as provided in paragraph (b)(3)(iv) of this section, and shall report as provided in paragraph (b)(3)(iv) of this section.</p> <p>(vi) If the owner or operator has been told that a mixture or trade name product contains a toxic chemical, does not know the specific chemical identity of the chemical, does not know the specific concentration at which the chemical is present in the mixture or trade name product, including information they have themselves developed, and has not been told the upper bound concentration of the chemical in the mixture or trade name product, the owner or operator is not required to report with respect to that toxic chemical.</p> <p>(c) A covered facility may consist of more than one establishment. The owner or operator of such a facility at which a toxic chemical was manufactured (including imported), processed, or otherwise used in excess of an applicable threshold may submit a separate Form R for each establishment or for each group of establishments within the facility to report the activities involving the toxic chemical at each establishment or group of establishments, provided that activities involving that toxic chemical at all the establishments within the covered facility are reported. If each establishment or group of</p>

## Table 4 Emergency Planning and Community Right-To-Know Act

<b>Part 4. Toxic Chemical Release Reporting (con't.)</b>	
<b>References</b> 40 CFR 372.30 (con't.)	<p>establishments files separate reports then for all other chemicals subject to reporting at that facility they must also submit separate reports. However, an establishment or group of establishments does not have to submit a report for a chemical that is not manufactured (including imported), processed, otherwise used, or released at that establishment or group of establishments.</p> <p>(d) Each report under this section for activities involving a toxic chemical that occurred during a calendar year at a covered facility must be submitted on or before July 1 of the next year. The first such report for calendar year 1987 activities must be submitted on or before July 1, 1988.</p> <p>(e) For reports applicable to activities for calendar years 1987, 1988, and 1989 only, the owner or operator of a covered facility may report releases of a specific toxic chemical to an environmental medium, or transfers of wastes containing a specific toxic chemical to an off-site location, of less than 1,000 pounds using the ranges provided in the form and instructions in Subpart E. For reports applicable to activities in calendar year 1990 and beyond, these ranges may not be used.</p>
<b>References</b> 40 CFR 372.38	<p><b>Exemptions</b></p> <p>(a) De minimis concentrations of a toxic chemical in a mixture. If a toxic chemical is present in a mixture of chemicals at a covered facility and the toxic chemical is in a concentration in the mixture which is below 1 percent of the mixture, or 0.1 percent of the mixture in the case of a toxic chemical which is a carcinogen as defined in 29 CFR 1910.1200(d)(4), a person is not required to consider the quantity of the toxic chemical present in such mixture when determining whether an applicable threshold has been met under 40 CFR 372.25 or determining the amount of release to be reported under 40 CFR 372.30. This exemption applies whether the person received the mixture from another person or the person produced the mixture, either by mixing the chemical involved or by causing a chemical reaction which resulted in the creation of the toxic chemical in the mixture. However, this exemption applies only to the quantity of the toxic chemical present in the mixture. If the toxic chemical is also manufactured (including imported), processed, or otherwise used at the covered facility other than as part of the mixture or in a mixture at higher concentrations, in excess of an applicable threshold quantity set forth in 40 CFR 372.25, the person is required to report under 40 CFR 372.30.</p> <p>(b) Articles. If a toxic chemical is present in an article at a covered facility, a person is not required to consider the quantity of the toxic chemical present in such article when determining whether an applicable threshold has been met under 40 CFR 372.25 or determining the amount of release to be reported under 40 CFR 372.30. This exemption applies</p>

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whether the person received the article from another person or the person produced the article. However, this exemption applies only to the quantity of the toxic chemical present in the article. If the toxic chemical is manufactured (including imported), processed, or otherwise used at the covered facility other than as part of the article, in excess of an applicable threshold quantity set forth in 40 CFR 372.25, the person is required to report under 40 CFR 372.30. Persons potentially subject to this exemption should carefully review the definitions of article and release in 40 CFR 372.3. If a release of a toxic chemical occurs as a result of the processing or use an item at the facility, that item does not meet the definition of article.

- (c) Uses. If a toxic chemical is used at a covered facility for a purpose described in this paragraph (c), a person is not required to consider the quantity of the toxic chemical used for such purpose when determining whether an applicable threshold has been met under 40 CFR 372.25 or determining the amount of releases to be reported under 40 CFR 372.30. However, this exemption only applies to the quantity of the toxic chemical used for the purpose described in this paragraph (c). If the toxic chemical is also manufactured (including imported), processed, or otherwise used at the covered facility other than as described in this paragraph (c), in excess of an applicable threshold quantity set forth in 40 CFR 372.25, the person is required to report under 40 CFR 372.30:
  - (1) Use as a structural component of the facility.
  - (2) Use of products for routine janitorial or facility grounds maintenance. Examples include use of janitorial cleaning supplies, fertilizers, and pesticides similar in type or concentration to consumer products.
  - (3) Personal use by employees or other persons at the facility of foods, drugs, cosmetics, or other personal items containing toxic chemicals, including supplies of such products within the facility such as in a facility operated cafeteria, store, or infirmary.
  - (4) Use of products containing toxic chemicals for the purpose of maintaining motor vehicles operated by the facility.
  - (5) Use of toxic chemicals present in process water and non-contact cooling water as drawn from the environment or from municipal sources, or toxic chemicals present in air used either as compressed air or as part of combustion.
- (d) Activities in laboratories. If a toxic chemical is manufactured, processed, or used in a laboratory at a covered facility under the supervision of a technically qualified individual as defined in 40 CFR 720.3(ee) of this title, a person is not

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required to consider the quantity so manufactured, processed, or used when determining whether an applicable threshold has been met under 40 CFR 372.25 or determining the amount of release to be reported under 40 CFR 372.30. This exemption does not apply in the following cases:

- (1) Specialty chemical production.
- (2) Manufacture, processing, or use of toxic chemicals in pilot plant scale operations.
- (3) Activities conducted outside the laboratory.